



‘Solving disputes in the county courts’

**JUSTICE response to
Ministry of Justice Consultation
CP6/2011**

June 2011

For further information contact

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1. Founded in 1957, JUSTICE is a UK-based human rights and law reform organisation. Its mission is to advance justice, human rights and the rule of law. It is the British section of the International Commission of Jurists.
2. This written paper is provided in addition to our response on the questionnaire (annexed to this paper). It is our view that the consultation paper fails to address significant issues of principle which must be taken into account when considering the reform of 'civil justice'. This paper sets out our concerns in this regard.

Introduction – Principles

3. Lord Woolf's interim report of 1995 identified eight key principles, all of which this consultation paper fails to consider adequately (if at all). These were set out in the first paragraph of his interim report: the civil justice system must:
 - (a) be *just* in the results it delivers;
 - (b) be *fair* in the way it treats litigants;
 - (c) offer appropriate procedures at a reasonable *cost*;
 - (d) deal with cases with reasonable *speed*;
 - (e) be *understandable* to those who use it;
 - (f) be *responsive* to the needs of those who use it;
 - (g) provide as much *certainty* as the nature of particular cases allows;
and
 - (h) be *effective*: adequately resourced and organised.

Unfortunately, Lord Woolf's admirable principles have been somewhat forgotten, and certainly ignored, in the consultation paper.

4. The Ministry focus their proposals on the need to reduce litigation and cost without explicitly considering for example, whether the outcome is fair and just. The Ministry set out its 'new vision for civil justice'¹. This does not repeat Lord Woolf's principles and identifies only the values of
 - proportionality,
 - personal responsibility,
 - streamlined procedures and

¹ Section 1.3

- transparency.

More worryingly it is clear that the impetus for such change is predominately economic:

The 'system [] needs to focus more on dispute resolution... rather than the loftier ideals of 'justice', that cause many to pursue their case beyond the point that is economic for them to do so'².

5. Reform of the civil justice system may be desirable. Indeed, there is much to be said for ensuring proportionality and a streamlined system to reduce costs and complexity in the system. We are however, troubled by the emphasis that the Ministry has placed on costs in this regard and repeat our assertion that the main objective should be ensuring that justice is done fairly. This is a vital function of a *justice* system.
6. The concept of personal responsibility in the context of potential litigation raises difficult issues. We appreciate that this idea is extolled in the context of the 'Big Society'. However, it must be remembered that the Government has an institutional responsibility to ensure that its citizens have access to justice. There is a very real risk that the weight given to the personal responsibility will alienate the weaker members of society who are unable to support a case without assistance. It may even go further – disenfranchising, excluding and significantly disadvantaging the weaker party. In that case, the idea of personal responsibility merely facilitates the party with greater power and resources. It is for the Government to ensure justice is done, not individuals.
7. In addition, the term 'transparency' is unclear – somewhat ironically. It appears that the proposals actually suggest supporting a more informed approach by publishing 'clear information' or guidance on 'dispute resolution options'. However, the principle of transparency must also allow for the county courts system to be easily accessible, understandable and thereby transparent.
8. Furthermore, it is important to remember that the provision of information alone does not ensure an 'informed decision'. Information cannot negate the necessity of quality legal advice in order to assist individuals, particularly

² Para 4

vulnerable people, to make an informed decision as to whether to litigate, mediate, or to settle.

Reform of civil justice

9. Lacking from the report is any concept of looking at the totality of the civil justice process from substantive law through procedural implementation and review to assistance with disputes. This 'holistic' approach is the only way in which serious reform can be undertaken. For example, we may need to simplify our laws on divorce to allow it on demand and without time limitations if we are to minimise costs of divorce. We may not be able to afford, as a society, laws which are too complicated.
10. We would welcome a review and further research into the operation of the small claims track. We agree that such claims can be dealt with distinctly to other areas of civil justice and that there may be other ways in which it can be approached. However, we repeat that the main aim of such reforms must be to ensure the outcomes set out in the principles formed by Lord Woolf.
11. The small claims court was established in order to provide a simple, easily accessible system which lay individuals could use without the need for professional legal advice. Despite this, cases can become over complex and long winded. In considering extending its remit to £15,000 it will be necessary to consider the small claims court's background and the procedural rules surrounding it as to why these delays have arisen. For example, pre-action protocols may need reconsideration to ensure they speed up and clarify procedures rather than overcomplicating the issues. In many cases, what may be required is simply agreed evidence from, for example, a surveyor in terms of a building dispute.
12. Courts need to be alive to issues of complexity and value of different cases. The reforms should make the courts proportionate and proactive (in itself or allowing others to do so) to ensure that the right cases reach the court room and that others are resolved at an early stage. Examples of ways this could happen would be to encourage individuals to seek a judicial decision without recourse to an oral hearing. For example, there could be cost incentives where it is cheaper to have a judgment on papers or by telephone. Clearly

any decisions to streamline in such a way would need to be compatible with equality laws and thereby allow those with disabilities or other restriction to be able to benefit from a reduced service. A key element should be the choice of the litigant.

13. The Ministry should consider what steps might be taken to prevent weak claims coming to court. This is suggested by the concept of 'transparency' as set out above, where there is more guidance/better forms to show what evidence is required e.g. contracts, debt etc.

Equality of Arms

14. The consultation paper gives insufficient attention to the Government's duty to provide what, in the US, would be termed 'equal justice' i.e. an equally just result for both parties, regardless of their resources. This should be a fundamental constitutional principle and, indeed, it is the phrase engraved on the outside of the US Supreme Court. The duty of a democratic state should be to ensure that members of society abide by, and benefit from, the provisions of the law. A major test of a state's capacity to deliver equal justice is the extent to which any dispute is determined on its inherent legal merits, and is not unduly influenced by the imbalance of resources between the parties.
15. A key example of this is the Ministry's proposal to make mediation mandatory. This requirement may present dubious opportunities for richer and more powerful parties to abuse the system, falsely using mediation and other forms of ADR with no intention of reaching an amicable settlement, but in order to bully and impose their strength on weaker parties who will then be unable (either financially or emotionally) to pursue their claims or defence through the courts. Again, it is plain that the Ministry of Justice has focused too much on the cost inputs and is not giving equal attention to the outcomes of justice and fairness. It is fundamental that people, no matter what their position or backgrounds, get a fair determination of a dispute through the court system.
16. There is no reason why ADR should not be presented to individuals as a voluntary option. As long as it is a matter of choice, and we would suggest

monitored by a judge to ensure equality of arms (and to make sure parties are not rewarded for behaving badly).

17. The implementation of full cost recovery in the form of raised court and ancillary fees raises the issue of remission. All those on basic means-tested benefits must be entitled as of right to remission. The government must consider whether there should also be some tapering of this free entitlement for those with incomes just above the minimum. The application of such costs should be transparent in the sense that the government, and not other litigants, should bear the cost of those whose fees are remitted.

Legal Aid proposals

18. The proposed reforms to the civil justice system cannot be considered in isolation. The recent proposed legal aid reforms will also dramatically impact on the ability of individuals to have access to justice in the civil courts. These proposals, as do those, are clearly looking to reduce costs yet with legal aid cuts to NGOs and charities, such individuals will not be able to seek early legal advice. The reforms to civil justice must therefore ensure that justice is still done and is seen to be done.

Equality Issues

19. We welcome the concept of more readily accessible information being provided online and the promotion of online claims. It is likely that this would be a useful tool which would assist in reducing litigation and unnecessary bureaucracy. We highlight, however, the requirement for Government to ensure that its systems are accessible to those who do not have access to a computer or a telephone and therefore it would be useful to supplement this with hard copy guidance and face to face advice services. Such groups who may require these services are the disabled, young people and those of whom English is their second language.

Alternative funding models

20. We appreciate that the Government is committed to making substantial savings in the justice system. There may be alternative funding models

available which would also reduce litigation, delay and costs to the court users. For example, we would recommend the promotion of the Tenancy Deposit Scheme in landlord and tenant cases, and also agree with call centres being established on behalf of insurance companies. We would suggest that much can be learnt from such schemes.

Conclusion

21. This consultation paper fails to address the key principles established by Lord Woolf. Any proposals for reform must be reconsidered in consideration of the outcomes – the county court must be fit for purpose and any reforms should not focus purely on reducing litigation and costs to the Government. Access to justice must be maintained regardless of the parties involved.

Jemma Hamlin
Legal Assistant
JUSTICE
June 2011

Annexe 1

**Response to
Consultation Questionnaire**



Questionnaire

We welcome responses to the following questions set out in the consultation paper. We would be grateful if you would consider, in the first instance, responding via the on-line questionnaire at: http://survey.euro.confirmat.com/wix/p625833348.aspx

However, if you prefer, you can return this questionnaire by email to civiltj@justice.gsi.gov.uk or in hard copy to Judith Evers, Ministry of Justice, Post point 4.12, 102 Petty France, London, SW1H 9AJ.

Please send your response by 12:00 noon on 30 June 2011.

About you

Full name JUSTICE

Job title (or capacity in which you are responding to this consultation exercise)

- Academic
Advice sector/Debt Adviser
Bank/Financial Institution
Business/Commercial
Claims Management Company
Consumer Representative Organisation
Government Department/Non-Departmental Public Body
Insurer
Judiciary
Legal Profession
Local Authority
Mediator/Mediation service provider
Member of public
Other - please specify Legal Charity

Company name/organisation (if applicable) JUSTICE

Address 59 Carter Lane London

Postcode EC4V 5AQ

Date June 2011

If you would like us to acknowledge receipt of your response please tick this box (emailed responses will be acknowledged automatically).

Address to which this acknowledgement should be sent, if different from above

Section 2 – Preventing cost escalation

Question 1: Do you agree that the current RTA PI Scheme's financial limit of £10,000 should be extended?

Yes No

Please give reasons.

We accept that the scheme has done enough to prove its value. We consider, however, that no decision should be taken to raise the current financial limit until the evaluation referred to in paragraph 71 of the consultation has been completed and its lessons learnt. The scheme must continue to be fit for purpose and ensure a fair and just outcome for its users.

Question 2: If your answer to Question 1 is yes, should the limit be extended to:

(i) £25,000 Yes No

(ii) £50,000 or Yes No

(iii) some other figure (please state with reasons)? Yes No

Please give reasons.

We would take this figure as a reasonable first extension of the scheme. If the extension proves relatively unproblematic, a higher figure can be substituted (subject to further evaluation).

Question 3: Do you consider that the fixed costs regime under the current RTA PI Scheme should remain the same if the limit was raised to £25,000, £50,000 or some other figure?

Yes No

Please give reasons.

The costs regime needs to reflect the fact that cases are distinguishable by both value and complexity. Cases involving higher amounts of damages are likely to be more complicated. The fixed costs regime should reasonably recognise that. We would suggest that the fixed costs payable at each of the three stages of the scheme be increased proportionately for, say, claims up to £20,000 and £25,000 ie increased by a factor of 2 or 2.5 respectively.

Question 8: What modifications, if any, do you consider would be necessary for the scheme to accommodate employers' and public liability claims?

Please give reasons.

Question 9: Do you agree that a variation of the RTA PI scheme should be introduced for lower value clinical negligence claims?

Yes No

Please give reasons.

The difficulty is that clinical negligence claims are more disparate than RTA claims and it is often more complicated in respect of establishing liability and causation. The results of the pilot scheme being currently trialed should be considered before any decision is made.

Question 10: If your answer to Question 9 is yes, should the limit for the new scheme be set at:

- | | | |
|---|------------------------------|-----------------------------|
| (i) £10,000 | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (ii) £25,000 | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (iii) £50,000 or | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (iv) some other figure (please state with reasons)? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Please give reasons.

Question 11: What modifications, if any, do you consider would be necessary for the scheme to accommodate clinical negligence claims?

Please give reasons.

Question 12: Do you agree that a system of fixed recoverable costs should be implemented, similar to that proposed by Lord Justice Jackson in his Review of Civil Litigation Costs: Final Report for all Fast Track personal injury claims that are not covered by any extension of the RTA PI process?

Yes No

Please give reasons.

We think it would be reasonable to have fixed fast track costs in suitable cases. It would seem sensible to do this gradually by extending fixed costs to areas in which it seems most likely that these will work fairly.

Question 13: Do you consider that a system of fixed recoverable costs could be applied to other Fast Track claims? If not, please explain why.

Yes No

Please give reasons.

In theory, it could be worth expanding a system of fixed recoverable costs. However, this would need further evaluation as it would need to ensure that the costs recoverable were a just and fair result. It would be appropriate to attach conditions to the general expansion such as allowing an application to disapply fixed costs, at the stage of allocation and allowing exceptional cases to receive higher funding, for example where large, unforeseeable costs are incurred.

Question 14: If your answer to Question 13 is yes, to which other claims should the system apply and why?
Please give reasons.

Potential other claims where fixed recoverable costs could apply are:-

- landlord and tenant disputes, for example, rent arrears
- consumer disputes, for example, faulty goods or services
- debt problems, for example, a creditor seeking payment
- employment problems, for example, wages or salary owing or pay in lieu of notice.

Question 15: Do you agree that for all other Fast Track claims there should be a limit to the pre-trial costs that may be recovered?

Yes No

Please give reasons.

We think this is a sensible provision as it provides a desirable degree of clarity for the parties. However, we would suggest that a condition be attached to allow parties to make an application at the allocation stage to disapply the limited costs.

Question 16: Do you agree that mandatory pre-action directions should be developed? If not, please explain why.

Yes No

Please give reasons.

This should assist in the streamlining of cases.

Question 17: If your answer to Question 16 is yes, should mandatory pre-action directions apply to all claims with a value up to:

(i) £100,000 or

Yes No

(ii) some other figure (please state with reasons)?

Yes No

Please give reasons.

There should be as much standardisation as possible. However, large cases may have special features meriting particular attention.

Question 18: Do you agree that mandatory pre-action directions should include a compulsory settlement stage? If not, please explain why.

Yes No

Please give reasons.

There should certainly be an express requirement to consider settlement.

Question 19: If your answer to Question 18 is yes, should a prescribed ADR process be specified? If so, what should that be?

Yes No

Please specify and give reasons.

ADR encompasses a range of processes. Indeed, it is perhaps better described as 'Appropriate' dispute resolution rather than 'alternative'. They range from mediation, which may involve the active intervention of a third party to seek a settlement, to 'early neutral evaluation', effectively a preview of what a judge might decide. The judges at any court should decide which are to be made available and they should be listed as a menu for litigants, together with the cost attached to each. Litigants should be free to choose what they think appropriate subject to three considerations: both parties must consent; the ADR should take place within 'the shadow of the law' ie be challengeable if leading to an irrational and unjust result; the parties should be free to say that they prefer to go to trial if that is what they want to do or if they believe that the process is being used in bad faith.

Question 20: Do you consider that there should be a system of fixed recoverable costs for different stages of the dispute resolution regime? If not, please explain why.

Yes No

Please give reasons.

Question 21: Do you consider that fixed recoverable costs should be:

(i) for different types of dispute or

Yes

No

(ii) based on the monetary value of the claim?

Yes

No

If not, how should this operate?

Please specify and give reasons.

They should reflect both.

Question 22: Do you agree that the behaviours detailed in the Pre-Action Protocol for Rent Arrears and the Mortgage Pre-Action Protocol could be made mandatory? If not, please explain why.

Yes No

Please give reasons.

It depends what 'mandatory' means. The paper acknowledges that there is a problem with the non-attendance of defendants. This is unlikely to be solved by using the full weight of the law in terms of making failure to attend a contempt of court. It is also unnecessary in the majority of cases, where the grounds for possession are mandatory.

As a matter of principle, it must be remembered that these are civil disputes. The parties should have the freedom to decide whether to attend or not (regardless of an outsider's view of the advantages of doing so). Attendance at a settlement meeting should be expressly invited but there should be no sanction for non-attendance.

Question 23: If your answer to Question 22 is yes, should there be different procedures depending on the type of case? Please explain how this should operate.

Yes No

Please give reasons.

Question 24: What do you consider should be done to encourage more businesses, the legal profession and other organisations in particular to increase their use of electronic channels to issue claims?

Please give reasons.

Reduce the fee for filing on-line; making it more cost effective to claim online rather than in paperform.

Question 25: Do you agree that the small claims financial threshold of £5,000 should be increased? If not, please explain why.

Yes No

Please give reasons.

The small claims track costs rules provide access to the courts. In addition, the procedure is simpler for all litigants, particularly litigants in person.

Question 26: If your answer to Question 25 is yes, do you agree that the threshold should be increased to:

(i) £15,000 or

Yes No

(ii) some other figure (please state with reasons)?

Yes No

Please give reasons.

We would advise raising the threshold in the first instance to £10,000; commissioning research on the impact; and then considering whether to raise the limit further.

There are particular areas which will require attention in increasing the small claims limit. For example, the present maximum for expert evidence should be increased, perhaps by adding a higher limit for larger value claims. Consideration should also be given to creating panels (perhaps industry-based, with agreed fees) which would allow the court itself to appoint an expert.

Question 27: Do you agree that the small claims financial threshold for housing disrepair should remain at the current limit of £1,000?

Yes No

Please give reasons.

These cases can be difficult to bring without legal assistance.

Question 28: If your answer to Question 27 is no, what should the new threshold be?

Please give your reasons.

Question 29: Do you agree that the fast track financial threshold of £25,000 should be increased? If not, please explain why.

Yes No

Please give reasons.

To take account of the raised limit for small claims.

Question 30: If your answer to Question 29 is yes, what should the new threshold be?

Please give your reasons.

£50,000 would be a sensible figure. We argue for a doubling both of the small claims and the fast track limits.

Section 3 – Alternative dispute resolution

Question 31: Do you consider that the CMC's accreditation scheme for mediation providers is sufficient?

Yes No

Please give reasons.

'Sufficient' for what? If mediation is to be brought within the ambit of the court and become 'court annexed' in some way then the court - or at least the Ministry - has to take responsibility for standards. The CMC should set standards for its members which are acceptable to the Judges Council.

Question 32: If your answer to Question 31 is no, what more should be done to regulate civil and commercial mediators?

Please give reasons.

See above

Question 33: Do you agree with the proposal to introduce automatic referral to mediation in small claims cases?

Yes No

Please give reasons.

The small claims procedure was intended to be an accessible alternative to the court. To introduce mandatory mediation is to provide an alternative to an alternative. It would also potentially privatise much small claims adjudication. Court-annexed mediation should be offered as a possible option available in cases regarded as suitable by the judge and where the parties agree. If the parties want mediation, they will choose it. If they don't, they won't.

Question 34: If the small claims financial threshold is raised (see Question 25), do you consider that automatic referral to mediation should apply to all cases up to:

(i) £15,000

Yes

No

(ii) the old threshold of £5,000 or

Yes

No

(iii) some other figure?

Yes

No

Please give reasons.

We welcome the choice of court-annexed mediation and oppose compulsion in its use.

Question 35: How should small claims mediation be provided?

Please explain with reasons.

In any way that the parties choose to take and the court agrees.

Question 36: Do you consider that any cases should be exempt from the automatic referral to mediation process?

Yes No

Please give reasons.

All. See above.

Question 37: If your answer to Question 36 is yes, what should those exemptions be and why?

See above.

Question 38: Do you agree that parties should be given the opportunity to choose whether their small claims hearing is conducted by telephone or determined on paper?

Yes No

Please give reasons.

Parties should have the choice to agree how their case is to be dealt with. Cost incentives should be considered to make parties want to litigate without an oral hearing.

Question 39: Do you agree with the proposal to introduce compulsory mediation information sessions for cases up to a value of £100,000? If not, please explain why.

Yes No

Please give reasons.

See above.

Question 40: If your answer to Question 39 is yes, please state what might be covered in these sessions, and how they might be delivered (for example by electronic means)?

Please give reasons.

Question 41: Do you consider that there should be exemptions from the compulsory mediation information sessions?

Yes No

Please give reasons.

There is no problem with a compulsory mediation information session provided that the client is given a transparent and open choice about the actual use of mediation in their case.

Question 42: If your answer to Question 41 is yes, what should those exemptions be and why?

Question 43: Do you agree that provisions required by the EU Mediation Directive should be similarly provided for domestic cases? If not, please explain why.

Yes No

Please give reasons.

The EU Directive relates to cross-border cases so, of course, it puts a low premium on actual attendance. The parties should be able to consent to a paper or telephone determination and, if the judge agrees, then one should be possible.

Question 44: If your answer to Question 43 is yes, what provisions should be provided and why?

Section 4 – Debt recovery and enforcement

Question 45: Do you agree that the provision in the TCE Act to allow creditors to apply for charging orders routinely, even where debtors are paying by instalments and are up to date with them, should be implemented? If not, please explain why.

Yes No

Please give reasons.

Where a debtor is complying with an order of the court as to the amount and regularity of payments, then there should be no further sanction. If a creditor considers that a charging order is required to enforce payment then they should be able to apply for such an order as part of the judgment. However, if a defendant is complying with the order made against them then the creditor has no reason to be dissatisfied with that.

Question 46: Do you agree that there should be a threshold below which a creditor could not enforce a charging order through an order for sale for debts that originally arose under a regulated Consumer Credit Act 1974 agreement? If not, please explain why.

Yes No

Please give reasons.

We have insufficient knowledge of the detail of this field to answer this and the related following questions.

Question 47: If your answer to Question 46 is yes, should the threshold be:

(i) £1,000 Yes No

(ii) £5,000 Yes No

(iii) £10,000 Yes No

(iv) £15,000 Yes No

(v) £25,000 or Yes No

(vi) some other figure (please state with reasons)? Yes No

Please give reasons.

Question 48: Do you agree that the threshold should be limited to Consumer Credit Act debts? If not, please explain why.

Yes No

Please give reasons.

Question 49: Do you agree that fixed tables for the attachment of earnings should be introduced? If not, please explain why.

Yes No

Please give reasons.

Whilst the figure of earnings may be an adequate reflection of the amount that can be attached a fixed table would fail to take into consideration other issues that may impact a defendant.

Question 50: Do you agree that there should be a formal mechanism to enable the court to discover a debtor's current employer without having to rely on information furnished by the debtor? If not, please explain why.

Yes No

Please give reasons.

If the debtor is in arrears with payment and subject to provisions on data protection.

Question 51: Do you agree that the procedure for TPDOs should be streamlined in the way proposed? If not, please explain why.

Yes No

Please give reasons.

It should only apply if the debtor is in arrears.

Question 52: Do you agree that TPDOs should be applicable to a wider range of bank accounts, including joint and deposit accounts? If not, please explain why.

Yes No

Please give reasons.

Question 53: Do you agree with the introduction of periodic lump sum deductions for those debtors who have regular amounts paid into their accounts? If not, please explain why.

Yes No

Please give reasons.

Question 54: Do you agree that the court should be able to obtain information about the debtor that creditors may not otherwise be able to access? If not, please explain why.

Yes No

Please give reasons.

This depends on the ambit of the information and its relevance to the repayment of the debt.

Question 55: Do you agree that government departments should be able to share information to assist the recovery of unpaid civil debts? If not, please explain why.

Yes No

Please give reasons.

Question 56: Do you have any reservations about Information applications, Departmental Information Requests or Information Orders? If so, what are they?

Yes No

Please give reasons.

Question 57: Do you consider that the authority of the court judgment order should be extended to enable creditors to apply directly to a third party enforcement provider without further need to apply back to the court for enforcement processes once in possession of a judgment order? If not, please explain why.

Yes No

Please give reasons.

The court should be able to consider enforcement at the time of making the order. Application to a third party enforcement provider should be dependent on judicial decision.

Question 58: How would you envisage the process working (in terms of service of documents, additional burdens on banks, employers, monitoring of enforcement activities, etc)?

A court order should still be required.

Question 59: Do you agree that all Part 4 enforcement should be administered in the county court? If not, please explain why.

Yes No

Please give reasons.

This is logical.

Section 5 – Structural reforms

Question 60: Do you agree that the financial limit of £30,000 for county court equity jurisdiction is too low? If not, please explain why.

Yes No

Please give reasons.

It is time for the Ministry to be bold and finally unify the civil courts, as was originally suggested by a consultation paper issued by the Civil Justice Review. That would make all limits much more flexible and allow much more elasticity in managing the system as a whole.

Question 61: If your answer to Question 60 is yes, do you consider that the financial limit should be increased to:

(i) £350,000 or

Yes

No

(ii) some other figure (please state with reasons)?

Yes

No

Please give reasons.

£350,000 would seem a dramatic but justifiable limit if the Ministry feels unable to unify the civil courts.

Question 62: Do you agree that the financial limit of £25,000 below which cases cannot be started in the High Court is too low? If not, please explain why.

Yes No

Please give reasons.

Question 63: If your answer to Question 62 is yes, do you consider that the financial limit (other than personal injury claims) should be increased to:

(i) £100,000 or

Yes

No

(ii) some other figure (please state with reasons)?

Yes

No

Please give reasons.

This sounds a sensible and pragmatic raising of limits.

Question 64: Do you agree that the power to grant freezing orders should be extended to suitably qualified Circuit Judges sitting in the county courts? If not, please explain why.

Yes No

Please give reasons.

Question 65: Do you agree that claims for variation of trusts and certain claims under the Companies Act and other specialist legislation, such as schemes of arrangement, reductions of capital, insurance transfer schemes and cross-border mergers should come under the exclusive jurisdiction of the High Court? If not, please explain why.

Yes No

Please give reasons.

It would be better for these issues to be the exclusive jurisdiction of a level of judge rather than a level of court. That is the idea behind a unified civil court system.

Question 66: If your answer to Question 65 is yes, please provide examples of other claims under the Companies Act that you consider should fall within the exclusive jurisdiction of the High Court.

Please give reasons.

Question 67: Do you agree that where a High Court Judge has jurisdiction to sit as a judge of the county court, the need for the specific request of the Lord Chief Justice, after consulting the Lord Chancellor, should be removed? If not, please explain why.

Yes No

Please give reasons.

There should be more flexibility.

Question 68: Do you agree that a general provision enabling a High Court Judge to sit as a judge of the county court as the requirement of business demands, should be introduced? If not, please explain why.

Yes No

Please give reasons.

Question 69: Do you agree that a single county court should be established? If not, please explain why.

Yes No

Please give reasons.

There should be a single civil court.

Section 6 – Impact assessments

Question 70: Do you agree that we have correctly identified the range of impacts under the proposals set out in this consultation paper?

Yes No

Please give reasons.

There is a regrettable lack of research on which these proposals are based.

Question 71: Do you agree that we have correctly identified the extent of impacts under these proposals?

Yes No

Please give reasons.

Question 72: Do you agree have any evidence of equality impacts that have not been identified within the equality impact assessments? If so, how could they be mitigated?

Yes No

Please give reasons.

Thank you for taking the time to let us have your views.